IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:05CV89-MU

WILLIE FREDERICK,)	
Plaintiff,)	
vs.)	ORDER
AUSTIN INSULATION,)	
Defendant.)))	

This matter is before the court upon the Defendant's Motion to Dismiss pursuant to Rule 12(b)(6) for failure to state a claim upon which relief can be granted. The court issued a Roseboro notice to the *pro se* Plaintiff, directing him to file a response by May 6, 2005. The Plaintiff has failed to respond or request an extension of time to respond. It appears to the court that the Plaintiff's Complaint is not timely filed.

IT IS THEREFORE ORDERED that Defendant's Motion to Dismiss is hereby GRANTED.

Signed: August 29, 2005

Graham C. Mullen Chief United States District Judge